

103^D CONGRESS
1ST SESSION

H. R. 2848

To amend the Solid Waste Disposal Act to permit Governors to limit the disposal of out-of-State solid waste in their States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 1993

Mr. SHARP (for himself, Ms. LONG, Mr. McCLOSKEY, Mr. JACOBS, Mr. MYERS of Indiana, Mr. VISCLOSKY, Mr. HAMILTON, Mr. BURTON of Indiana, Mr. ROEMER, Mr. SHUSTER, Mr. CLINGER, Mr. RIDGE, Mr. McHALE, Mr. HOLDEN, Mr. BORSKI, Mr. FOGLIETTA, Mr. GREENWOOD, Mr. WELDON, Mr. KLINK, Mr. GEKAS, Ms. MARGOLIES-MEZVINSKY, Mr. BLACKWELL, Mr. REGULA, Ms. KAPTUR, Mr. MANN, Mr. HOBSON, Mr. PORTMAN, Mr. APPEGATE, Mr. FINGERHUT, and Mr. DICKEY) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Solid Waste Disposal Act to permit Governors to limit the disposal of out-of-State solid waste in their States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Interstate Transpor-
5 tation of Municipal Waste Act of 1993”.

1 **SEC. 2. INTERSTATE TRANSPORTATION OF MUNICIPAL**
2 **WASTE.**

3 Subtitle D of the Solid Waste Disposal Act (42
4 U.S.C. 6941 et seq.) is amended by adding at the end
5 the following new section:

6 “INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

7 “SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-
8 STATE MUNICIPAL WASTE IMPORTS.—

9 “(1) AUTHORITY TO PROHIBIT.—(A) Except as
10 provided in subparagraph (B), a Governor may pro-
11 hibit the disposal of out-of-State municipal waste in
12 any landfill or incinerator that is subject to the ju-
13 risdiction of the Governor.

14 “(B) The authority to prohibit disposal of out-
15 of-State municipal waste shall not apply to—

16 “(i) landfills in operation on the date of
17 enactment of this section that—

18 “(I) received during calendar year
19 1991 documented shipments of out-of-
20 State municipal waste; and

21 “(II) are in compliance with all appli-
22 cable Federal and State laws (including
23 any Federal or State rule or regulation) re-
24 lating to design and location standards,
25 leachate collection, ground water monitor-

1 ing, and financial assurance for closure
2 and post-closure and corrective action;

3 “(ii) proposed landfills that, prior to Janu-
4 ary 1, 1993, received—

5 “(I) an approval from either the af-
6 fected local government or the local solid
7 waste planning unit to receive municipal
8 waste generated outside the jurisdiction of
9 the affected local government, the solid
10 waste planning unit, or the State in which
11 the landfill is located; and

12 “(II) a notice of decision from the
13 State to grant a construction permit; or

14 “(iii) incinerators in operation on the date
15 of enactment of this section that—

16 “(I) received, during calendar year
17 1991, documented shipments of out-of-
18 State municipal waste;

19 “(II) are in compliance with the appli-
20 cable requirements of section 129 of the
21 Clean Air Act (42 U.S.C. 7429); and

22 “(III) are in compliance with all appli-
23 cable Federal and State laws (including
24 any Federal or State rule or regulation) re-

1 lating to facility design, operations, and
2 emissions.

3 “(2) AUTHORITY TO LIMIT.—Beginning with
4 calendar year 1993, a Governor may—

5 “(A) limit the quantity of out-of-State mu-
6 nicipal waste received for disposal at each land-
7 fill or incinerator in the State to an annual
8 quantity equal to the quantity of out-of-State
9 municipal waste received for disposal at the
10 landfill or incinerator during the calendar year
11 1991 or 1992, whichever is less; and

12 “(B) limit the disposal of out-of-State mu-
13 nicipal waste at each landfill or incinerator in
14 the State that received, during calendar year
15 1991 or 1992, documented shipments of more
16 than 50,000 tons of out-of-State municipal
17 waste representing more than 30 percent of all
18 municipal waste received at the landfill or incin-
19 erator during the calendar year, by limiting the
20 quantity of out-of-State municipal waste re-
21 ceived for disposal at such landfill or inciner-
22 ator to an annual quantity not greater than 30
23 percent of all municipal waste received at the
24 landfill or incinerator during calendar year
25 1991 or 1992, whichever is less;

1 “(C) prohibit the disposal of out-of-State
2 municipal waste in landfills that do not meet all
3 applicable Federal and State laws (including
4 any Federal or State rule or regulation) relat-
5 ing to design and location standards, leachate
6 collection, ground water monitoring, and finan-
7 cial assurance for closure and post-closure and
8 corrective action; and

9 “(D) prohibit the disposal of out-of-State
10 municipal waste in incinerators that do not
11 meet all applicable Federal and State laws (in-
12 cluding any Federal or State rule or regulation)
13 relating to facility design, operations, and emis-
14 sions.

15 “(3) AUTHORITY TO FURTHER LIMIT.—Begin-
16 ning with calendar year 1997, a Governor may fur-
17 ther limit the disposal of out-of-State municipal
18 waste as provided in paragraph (2)(B) by reducing
19 the 30 percent annual quantity limitation to 20 per-
20 cent in each of calendar years 1998 and 1999, and
21 to 10 percent in each succeeding calendar year.

22 “(4) AUTHORITY WITH RESPECT TO INDUS-
23 TRIAL WASTE.—A Governor may exercise the au-
24 thority provided in paragraphs (1), (2), and (3) with
25 respect to any industrial waste that is to be disposed

1 of at a landfill or incinerator that receives municipal
2 solid waste.

3 “(5) APPLICABILITY AND DISCRIMINATION PRO-
4 VISIONS.—Any limitation imposed by the Governor
5 under paragraph (2)(A), paragraph (2)(B), or para-
6 graph (3)—

7 “(A) shall be applicable throughout the
8 State; and

9 “(B) shall not discriminate against any
10 shipments of out-of-State municipal waste on
11 the basis of State of origin.

12 “(6) DETERMINATION OF QUANTITY OF OUT-
13 OF-STATE MUNICIPAL WASTE RECEIVED IN STATES
14 EXERCISING AUTHORITY.—(A) Any Governor who
15 intends to exercise the authority provided in this
16 subsection shall, within 120 days after the date of
17 enactment of this section, submit to the Adminis-
18 trator information documenting the quantity of out-
19 of-State municipal waste received for disposal in the
20 State of the Governor during calendar years 1991
21 and 1992.

22 “(B) On receipt of the information submitted
23 pursuant to subparagraph (A), the Administrator
24 shall notify the Governor of each State and the pub-

1 lic and shall provide a comment period of not less
2 than 30 days.

3 “(C) Not later than 180 days after the date of
4 enactment of this section, the Administrator shall
5 publish a list of the quantity of out-of-State municipi-
6 pal waste that was received during calendar years
7 1991 and 1992, at each landfill and incinerator in
8 each State in which the Governor intends to exercise
9 the authority provided in this subsection.

10 “(b) AUTHORITY TO RESTRICT IN-STATE MUNICI-
11 PAL WASTE EXPORTS.—(1) Except as provided in para-
12 graph (2), a Governor of a State may limit or prohibit
13 the exportation outside the State of municipal waste gen-
14 erated in the State, in accordance with the comprehensive
15 waste management plan of the affected local solid waste
16 planning unit, or, if such a plan does not exist, in accord-
17 ance with State law.

18 “(2) A Governor may not limit or prohibit the expor-
19 tation of materials consisting solely of materials that have
20 been separated from municipal waste for recycling.

21 “(c) DELEGATION OF AUTHORITY TO LOCAL GOV-
22 ERNMENTS.—A Governor may delegate authority provided
23 by subsection (a) or (b), or both, to an affected local gov-
24 ernment or to a local solid waste planning unit, if a local
25 solid waste planning unit exists under State law.

1 “(d) DESIGNATION OF AFFECTED LOCAL GOVERN-
2 MENT.—Within 90 days after the date of the enactment
3 of this section, the Governor shall designate which entity
4 listed in subsection (e)(1) shall serve as the affected local
5 government for actions taken under subsections (a) and
6 (b). If the Governor fails to make a designation, the af-
7 fected local government for actions taken under this sec-
8 tion shall be the city, town, borough, county, parish, or
9 other political subdivision created pursuant to State law
10 with primary jurisdiction over the land or the use of the
11 land on which the landfill or incinerator concerned is lo-
12 cated.

13 “(e) DEFINITIONS.—For purposes of this section:

14 “(1) The term ‘affected local government’
15 means the elected officials of the city, town, bor-
16 ough, county, parish, or other political subdivision in
17 which a landfill or incinerator is located.

18 “(2) The term ‘affected local solid waste plan-
19 ning unit’ means a political subdivision of a State
20 with authority relating to solid waste management
21 planning in accordance with State law.

22 “(3) The term ‘out-of-State municipal waste’
23 means, with respect to a State, municipal waste gen-
24 erated outside of the State. The term includes mu-
25 nicipal waste generated outside of the United States.

1 “(4) The term ‘municipal waste’ means refuse
2 (and refuse-derived fuel) generated by the general
3 public or from a residential, commercial, institu-
4 tional, or industrial source (or any combination
5 thereof), consisting of paper, wood, yard wastes,
6 plastics, leather, rubber, or other combustible or
7 noncombustible materials such as metal or glass (or
8 any combination thereof). The term does not in-
9 clude—

10 “(A) any solid waste identified or listed as
11 a hazardous waste under section 3001;

12 “(B) any solid waste, including contami-
13 nated soil and debris, resulting from a response
14 action taken under section 104 or 106 of the
15 Comprehensive Environmental Response, Com-
16 pensation, and Liability Act (42 U.S.C. 9604 or
17 9606) or a corrective action taken under this
18 Act;

19 “(C) any metal, pipe, glass, plastic, paper,
20 textile, or other material that has been sepa-
21 rated or diverted from municipal waste and has
22 been transported into the State for the purpose
23 of recycling or reclamation;

24 “(D) any solid or industrial waste that
25 is—

1 “(i) generated by an industrial facil-
2 ity; and

3 “(ii) transported for the purpose of
4 treatment, storage, or disposal to a facility
5 that is owned or operated by the generator
6 of the waste, or is located on property
7 owned by the generator of a company with
8 which the generator is affiliated;

9 “(E) any solid waste generated incident to
10 the provision of service in interstate, intrastate,
11 foreign, or overseas air transportation;

12 “(F) any medical waste that is segregated
13 from or not mixed with municipal waste; or

14 “(G) any material or product returned
15 from a dispenser or distributor to the manufac-
16 turer for credit, evaluation, or possible reuse.

17 “(5) The term ‘industrial waste’ means waste
18 generated from manufacturing or industrial process-
19 ing operations that is not identical to municipal
20 waste with respect to the physical and chemical state
21 of the waste and the composition of the waste. The
22 term includes construction and demolition debris.”.

1 **SEC. 3. TABLE OF CONTENTS AMENDMENT.**

2 The table of contents of the Solid Waste Disposal Act
3 is amended by adding at the end of the items relating to
4 subtitle D the following new item:

“Sec. 4011. Interstate transportation of municipal waste.”.

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